THE HON'BLE SRI JUSTICE V.ESWARAIAH

W.P.NO.4561 OF 2006

Dt.9.3.2006

Between:

Kothapalli Sudhakar … Petitioner

And

The Mandal Revenue Officer,

Atchutapuram, Visakhapatnam District and

Others … Respondents

ORDER:

Petitioner questions the inaction of the first respondent in not proceeding with the enquiry under Section 4(1) of the Act 9 of 1977 in the matter of wrongful alienation of land in Sy.No.168-2E measuring Ac.5-00 in Dopperla village assigned to the petitioner's grand father amounts to unlawful dereliction of duty and further direct the first respondent to forthwith take up the enquiry and complete the same.

The case of the petitioner is that the land to an extent of Ac.5.00 in Sy.No.168-2E in Dopperla Village, Atchutapuram Mandal, Visakhapatnam District, was assigned to the grand father of the petitioner, namely, Kothapalli Pydayya in the year 1961, as he was a landless Scheduled Caste person. He obtained certain loan from the

Primary Agricultural Co-operative Society and as he was unable to pay the loan amount, the said land was sold to respondents 2 to 5. It is stated that the said transfer of the land is contrary to the provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 and the said transferees, who are respondents 2 to 5, filed O.S.No.66 of 1997 on the file of the Principal Junior Civil Judge, Yelamanchili for granting permanent injunction and the said suit was decreed. Thereafter, the Mandal Revenue Officer, Atchutapuram, issued notice under Section 4(1) of the Act. Against which, respondents 2 to 5 filed O.S.No.15 of 2003 on the file of the Senior Civil Judge, Yelamanchili and the same was dismissed. Aggrieved by the same, respondents 2 to 5 also filed A.S.No.149 of 2004 on the file of the IX Additional District Court (Fast Track Court), Visakhapatnam and the same was also dismissed. Thereafter, the petitioner gave a representation dated 16.11.2005 to the first respondent stating that the purchase of the said assigned land by respondents 2 to 5 is illegal and contrary to provisions of Act 9 of 1977 and requested the Mandal Revenue Officer to resume possession of the said land and restore the same in favour of the legal heirs of the said Kothapalli Pydayya.

Heard the learned counsel for the petitioners and the learned Government Pleader for Revenue on behalf of the first respondent.

I am not inclined to express any opinion whether the legal heirs of the original assignee are entitled for possession of the assigned land or not, as it is a matter to be enquired by the Mandal Revenue Officer concerned. However, as the petitioner is said to have been filed representation dated 16.11.2005 before the first respondent, the first respondent is directed to consider and dispose of the same by initiating appropriate action under Act 9 of 1977 against the persons who are in possession of the said land in contravention of provisions of Section 3 of the Act.

The writ petition is accordingly disposed of. No order as to costs.

(V.ESWARAIAH, J.)

9.3.2006

Note: Issue copy within three days

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